



February 20, 2004

ENGROSSED SENATE BILL No. 176

DIGEST OF SB 176 (Updated February 17, 2004 10:54 am - DI 75)

Citations Affected: IC 3-8; IC 5-8.

Synopsis: Loss of office by convicted official. Conforms the time for a public official's removal from office with a provision in the election law concerning disqualification from holding or being a candidate for an elected office to the time the court pronounces the sentence for conviction of a felony.

Effective: July 1, 2004.

Lawson C, Skinner

(HOUSE SPONSORS — MAHERN, RICHARDSON)

January 6, 2004, read first time and referred to Committee on Elections and Civic Affairs.
January 13, 2004, reported favorably — Do Pass.
January 20, 2004, read second time, ordered engrossed.
January 21, 2004, engrossed.
January 26, 2004, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 4, 2004, read first time and referred to Committee on Elections and Apportionment.
February 19, 2004, reported — Do Pass.

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ES 176—LS 6714/DI 102+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 176

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-8-1-5, AS AMENDED BY P.L.176-1999,
2 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 5. (a) This section does not apply to a candidate
4 for federal office.

5 (b) A person is disqualified from holding or being a candidate for
6 an elected office if the person:

7 (1) gave or offered a bribe, threat, or reward to procure the
8 person's election, as provided in Article 2, Section 6 of the
9 Constitution of the State of Indiana;

10 (2) does not comply with IC 5-8-3 because of a conviction for a
11 violation of the federal laws listed in that statute;

12 (3) has:

13 (A) entered a plea of guilty or nolo contendere to; or

14 (B) been convicted of;

15 a felony (as defined in ~~IC 35-50-2-1~~), **IC 35-50-2-1(b)), and the**
16 **court has pronounced the sentence for the felony;**

17 (4) has been removed from the office the candidate seeks under

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Article 7, Section 11 or Article 7, Section 13 of the Constitution of the State of Indiana;

(5) is a member of the United States armed forces on active duty and prohibited by the United States Department of Defense from being a candidate; or

(6) is subject to:

(A) 5 U.S.C. 1502 (the Little Hatch Act); or

(B) 5 U.S.C. 7321-7326 (the Hatch Act);

and would violate either federal statute by becoming or remaining the candidate of a political party for nomination or election to an elected office or a political party office.

SECTION 2. IC 5-8-1-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 37. (a) As used in this section:

"Felony" means any crime punishable by imprisonment for more than one (1) year in any correctional facility. **has the meaning set forth in IC 35-50-2-1(b).**

"Public officer" means any person, elected or appointed, who holds any state, county, township, city, or town office.

(b) Any public officer convicted of a felony during ~~his~~ **the officer's** term of office shall:

(1) be removed from office by operation of law when ~~he~~ **is sentenced for the felony; the court pronounces the sentence for the felony;** and

(2) not receive any salary or remuneration from the time ~~he~~ **is sentenced for the felony; the court pronounces the sentence for the felony.**

(c) If the conviction is reversed, vacated, or set aside, and the officer's term has not expired, the officer shall:

(1) be reinstated in office; and

(2) receive any salary or other remuneration which ~~he~~ **the officer** would have received had ~~he~~ **the officer** not been removed from office.

(d) If the conviction is reversed, vacated, or set aside, and the officer's term has expired, ~~he~~ **the officer** shall receive any salary or other remuneration which ~~he~~ **the officer** would have received had ~~he~~ **the officer** not been removed from office.

(e) Every vacancy in a public office caused by the removal of a public officer under this section shall be filled as provided by law. If a convicted public officer is reinstated, the person filling the office during the appeal shall cease to hold the office.

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill No. 176, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 176 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 6, Nays 0.

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SENATE MOTION

Madam President: I move that Senator Skinner be added as coauthor of Engrossed Senate Bill 176.

LAWSON C

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Senate Bill 176, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

MAHERN, Chair

Committee Vote: yeas 9, nays 1.

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